

Manufacturer's Purchase Credit reported on any original or amended return filed after October 20, 2003 shall be disallowed under the provisions of P.A. 93-24. See 35 ILCS 120/3 (Text of Section from P.A. 93-24). (This is a GIL).

August 17, 2004

Dear Xxxxx:

This letter is in response to your letter dated March 16, 2004, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I am writing to you in regards to the Manufacturer's Purchase Credit being repealed and affects that it has on our company, a distributor. We had a situation where a customer of ours turned in a claim to us for a two year period totaling \$27,198.29 in the month of September 2003. We had to issue a credit to this customer for this amount, which left us overpaid to the State of Illinois \$22,479.00. Our average liability due to the Department of Revenue is between \$3,000 to \$4,000 a month.

We have been told by your department we are out of luck for this overpaid balance of \$22,479.00. Our position is that this is unfair. It is unfair that our customer had the same amount of time to turn in credits to us the distributor, as we did to claim the credits with the Department of Revenue. We had no idea that this customer was holding a MPC for 2 years and was going to wait until the last month to ask for credit. I am asking the Department of Revenue to reconsider this overpaid balance. We feel that our company did nothing wrong in handling the MPC and were caught in the circumstances between the end user and the Department of Revenue.

We were under the incorrect assumption that we could carry the overpaid balance forward against future amounts due. Therefore we did not remit payments with our filed tax returns for October, November, and December 2003, along with January 2004. We are now being told to pay these due balances along with penalties and interest. We are

willing to pay these amounts while request is being considered. However, we are asking that all penalties and interest be waived because of the timely filing of the returns and the fact that we acted in good faith.

I ask that a manager level individual give me a call to discuss this issue, as we would like to resolve it as soon as possible.

DEPARTMENT'S RESPONSE:

For general information purposes, subsection (h) of Section 130.331 of the Department's administrative rules was added to provide guidance when a retailer chooses to accept a Manufacturer Purchase Credit certification (ST-16-C) after a sale has taken place. As noted in that subsection, retailers and servicemen are not required to accept the certifications and are not required to refund the amount of Use Tax or Service Use Tax that was properly paid by the manufacturers or graphic arts producers in exchange for the certificates after the sales have taken place. See Ill. Adm. Code 130.331(h)(1).

Prior to October 1, 2003, a retailer may accept a Manufacturer's Purchase Credit certification from a purchaser in satisfaction of Use Tax as provided in Section 3-85 of the Use Tax Act if the purchaser provides the appropriate documentation as required by Section 3-85 of the Use Tax Act. A Manufacturer's Purchase Credit certification accepted by a retailer prior to October 1, 2003 may be used by that retailer to satisfy Retailers' Occupation Tax liability in the amount claimed in the certification, not to exceed 6.25% of the receipts subject to tax from a qualifying purchase.

However, Section 3 of the Retailers' Occupation Tax Act provides that: "A Manufacturer's Purchase Credit reported on any original or amended return filed under this Act after October 20, 2003 shall be disallowed. No Manufacturer's Purchase Credit may be used after September 30, 2003 to satisfy any tax liability imposed under this Act, including any audit liability." See 35 ILCS 120/3 (Text of Section from P.A. 93-24). The Department issued Informational Bulletin FY2004-04 in July of 2003 to notify taxpayers of these changes.

If the returns for the periods in question were filed after October 20, 2003, the Department is statutorily prohibited from allowing Manufacturer's Purchase Credit to be used to satisfy any liability reported on those returns. You may submit a request for reasonable cause to the Department's Reasonable Cause Review Unit for a waiver of penalties. Taxpayers submitting such a request must provide proof that they had reasonable cause for not timely paying their tax liability. See 86 Ill. Adm. Code 700.400. You may also submit a petition for abatement of penalty and interest to the Board of Appeals. See 86 Ill. Adm. Code 210.101.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

EEB:msk